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**Attorney for Plaintiff/Counter-Defendant, MARY STRUBLE, As Conservator for CS**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

12 MARY STRUBLE, As Conservator for CS, ) CASE NO.: 07 CV 2328 LAB (CAB)  
13 )  
14 Plaintiff, ) DECLARATION OF ELLEN DOWD, ESQ.  
15 v. ) IN OPPOSITION TO EX PARTE MOTION  
16 ) TO CONTINUE MANDATORY  
17 ) SETTLEMENT CONFERENCE  
18 FALLBROOK UNION HIGH SCHOOL )  
19 DISTRICT, a Local Educational Agency ) Date: February 29. 2008  
20 Defendant. ) Time: 2:00 p.m.  
21 FALLBROOK UNION HIGH SCHOOL ) Magistrate Judge: Hon. Cathy Ann  
22 DISTRICT, ) Bencivengo  
23 Counterclaimant, )  
24 v. )  
25 )  
26 MARY STRUBLE, As Conservator for CS, )  
27 )  
28 Counter-Defendant, )  
29 )

TO DEFENDANT/COUNTERCLAIMANT FALLBROOK UNION HIGH SCHOOL DISTRICT (“The District”), and its attorney of record:

1. I, Ellen Dowd am over 18 years of age, and am attorney of record for Plaintiff, C.S. ("Student").

1       2. I make this declaration of my own personal knowledge, and, if called as a witness,  
2 could and would testify competently hereto.

3       3. I make this declaration in opposition to the District's Ex Parte Motion for  
4 Continuance of the Mandatory Settlement Conference ordered by this Court on February 8,  
5 2008.

6       4. On January 9, 2008, pursuant to the District's filing of an Answer and  
7 Counterclaim in this case, the ENE Conference was timely set for February 12, 2008.

8       5. On February 6, 2008, the District, through its attorney, Sharon Watt, filed an *ex*  
9 *parte* Motion to Continue the ENE until March 18<sup>th</sup> or March 25<sup>th</sup> (Declaration of Sharon Watt  
10 dated February 6, 2008 to Ex Parte Motion to Continue ENE).

11      6. The Motion To Continue was opposed by Mary Struble, conservator of C.S. as  
12 well as by Ellen Dowd, Esq. The basis for the opposition is that Student, C.S. is sitting at home  
13 without any compensatory education, and time is of the essence in providing him with  
14 appropriate compensatory education.

15      7. On February 8, 2008, the Court issued an "Order Regarding Ex Parte Application  
16 To Continue Early Neutral Evaluation Conference," in which the ENE was rescheduled to be  
17 held via telephone on February 14, 2008, and which also scheduled a **Mandatory Settlement**  
18 **Conference** for February 29, 2008. This Order stated, "Failure to attend the conference will be  
19 considered grounds for sanctions."

20      8. On February 14, 2008, at 9:00 a.m. the Telephonic ENE Conference was held, at  
21 which time both attorneys confirmed the Mandatory Settlement Conference on February 29,  
22 2008.

23      9. In consideration of the Mandatory Settlement Conference, C.S.'s father and co-  
24 conservator took Friday, February 29, 2008 off from work.

25      10. In the current Motion to Continue the Mandatory Settlement Conference the  
26 District, through its attorney, once again seeks a continuance to late March, 2008 (March 19, 24  
27 or 26<sup>th</sup> per District's Points and Authorities to its Motion).

1       11. In its Motion the District suggests that only Sallie Hunt, the Director of Special  
2 Education is authorized to enter into binding settlement agreements for the District.

3       12. However, on the District's website, Peter Fellios, Director of Student Services, as  
4 well as the new Superintendent Larry French, or Assistant Superintendent-Educational Services,  
5 Jim Yahr all appear to be in positions to allocate district funds for students.

6       13. The IDEA was intended to uphold the rights of special education students, not  
7 school districts. The District's actions are in bad faith, and are undertaken to delay, protract, and  
8 unduly cause additional expense to my clients. Not to mention that there is a related case (08 CV  
9 0049 LAB [CAB]), which was frivolously filed for the express purpose of harassing and  
10 embarrassing my clients.

11       14. On February 25, 2008 Sallie Hunt filed a declaration under penalty of perjury in  
12 Related Case No. 08 CV 0049, in which she stated, under oath that, "The District's website does  
13 not have any links to "Fallbrook Union High School District v. Christopher S., Paul S., and Mary  
14 S, Case No. 08 CV LAB (CAB)."

15       15. However, as of today that very link is found, and the District continues to defame  
16 my clients by not taking corrective action to prevent this false accusation that my clients in some  
17 manner violated "Other Civil Rights," in a deliberate attempt to embarrass, harass and intimidate  
18 my clients. (See Exhibit "A" hereto).

19       16. On behalf of my client, I respectfully request that the Mandatory Settlement  
20 Conference go forward as scheduled on February 29, 2008 at 2:00 p.m. with a different  
21 representative for the District in attendance, or Sallie Hunt in attendance by telephone.

22       17. Alternatively, as it appears the only relief my client can achieve in this case will  
23 be through a binding court order, not subject to manipulation by the District for its own gain, I  
24 respectfully request that terminating sanctions be awarded, whereby the District's Answer and  
25 Counterclaims be dismissed with prejudice and compensatory education at Fusion Academy be  
26 ordered.

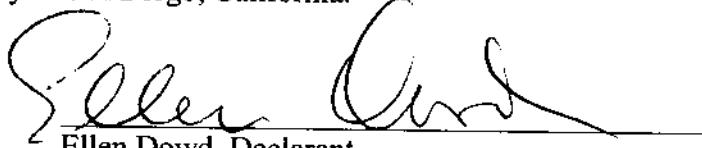
27       //

28       //

1 I declare under penalty of perjury under the laws of the United States and the State of  
2 California that the foregoing is true and correct.  
3  
4

5 Executed this 26<sup>th</sup> day of February at San Diego, California.  
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Ellen Dowd, Declarant

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## EXHIBIT "A"

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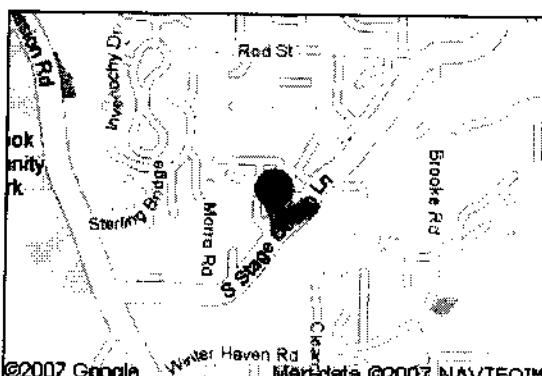
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### **Fallbrook Union High School District:**

**Superintendent**

[www.fuhsd.net](http://www.fuhsd.net)

2234 S Stagecoach Ln

Fallbrook, CA 92028

(760) 723-6332

[Get directions](#)

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FUHSD operates one comprehensive high school and three alternative campuses.

[Map of 2234 S Stagecoach LN, Fallbrook, CA 92028](#)

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Official **school** site with calendar and information on athletics, ASB, agriculture and alumni services.

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### **Fallbrook Union High School District Schools, Fallbrook - CA ...**

**Fallbrook Union High School District**, California - CA: Find, compare and map public schools in **Fallbrook Union High School District**.

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Up-to-date test scores and student demographics for the **Fallbrook Union High School District**.

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Justia Federal Filings - California Southern District Court - Civil Rights - Other Civil Rights - **Fallbrook Union High School District v. Struble et al.**

[dockets.justia.com/docket/court-casdce/case\\_no-3:2008cv00049/case\\_id-261077/](http://dockets.justia.com/docket/court-casdce/case_no-3:2008cv00049/case_id-261077/) - 77k -

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Oct 18, 2006 ... Statement: I look forward to serving a third term as a member of the  
**Fallbrook Union High School District** governing board. ...  
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